

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

VINCENT DANDURAND,)	
)	
Plaintiff,)	2:08-cv-191-RLH-RJJ
)	
vs.)	
)	
DEBRA DONOHUE; THOMAS)	REPORT & RECOMMENDATION
DONOHUE; WHITTNEY B. WARNICK;)	OF UNITED STATES
CHRISTOPHER J. PHILLIPS; RUTH)	<u>MAGISTRATE JUDGE</u>
WEAVER; ROY WEAVER; JASON)	
KNAPP; LAURENCE PENNER; TRENT)	
TYRELL & PHILLIPS; SCHNEIDER)	
FAMILY TRUST; PUBLIC STORAGE)	
CORP; TRENT TYRELL & PHILLIPS,)	
LANCE WILSON; ANDREW MENNEAR;)	
)	
Defendant,)	

This matter came before the Court on March 2, 2009, for a Show Cause hearing. Plaintiff VINCENT DANDURAND did not appear for this hearing therefore, the Court makes the following findings:

1. On April 9, 2008, the Court held a status hearing in this case. Plaintiff, Vincent Dandurand appeared at the hearing and was canvassed by the Court regarding his Application to Proceed *In Forma Pauperis* (#1). See, Minutes of Proceedings (#4).
2. At the conclusion of this hearing, the Court denied Plaintiff Dandurand's Application to Proceed *In Forma Pauperis* (#1) and further, found that the proposed Complaint failed to state a federal claim. Minutes of Proceedings (#4).
3. Plaintiff Vincent Dandurand was ordered to file an amended complaint and a

current application to proceed *in forma pauperis* on or before May 9, 2008.

4. Plaintiff Vincent Dandurand did not file an amended complaint and current application to proceed *in forma pauperis* by the May 9, 2008, deadline.

5. On February 3, 2009, the Court issued an Order to Show Cause (#5) scheduling a show cause hearing for March 3, 2009, and directing Plaintiff, Vincent Dandurand to appear. Order to Show Cause (#5).

6. The Order to Show Cause (#5) was served on the Plaintiff, Vincent Dandurand by certified mail at his address of record. Certified Mail Receipt #7005.

7. Plaintiff, Vincent Dandurand did not appear at the Show Cause hearing on March 2, 2009. Further, he failed to contact the Court regarding his non-appearance.

8. Plaintiff, Vincent Dandurand has failed to prosecute this case.

Good cause appearing therefore,

RECOMMENDATION

IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this case be dismissed with prejudice based on the findings identified above.

NOTICE

Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986). This Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991); Britt v. Simi Valley United Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 3d day of March, 2009.


ROBERT J. JOHNSTON
United States Magistrate Judge